

FRANCISCO V. DE COSTER.

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JUNE 15, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. FENTON, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. 2035.]

The Committee on Military Affairs, to whom was referred the bill (S. 2035) for remuster of Francisco V. De Coster as captain of Companies A and D, Mississippi Marine Brigade Cavalry Volunteers, having considered the same, recommend the passage of the following substitute for said bill:

That Francisco V. De Coster, late a sergeant of Company A, First Battalion of Cavalry of the Mississippi Marine Brigade, in the service of the United States, shall be held and considered to have served as captain in said battalion continuously from the thirteenth day of February, eighteen hundred and sixty-four, until he was mustered out of such service as a sergeant of said company, on the twenty-ninth day of August, eighteen hundred and sixty-four, and he shall be entitled to and shall receive the pay and allowances of a captain of cavalry for the period aforesaid, to wit, from February thirteenth, eighteen hundred and sixty-four, to August twenty-ninth, eighteen hundred and sixty-four: *Provided*, That the pay and allowances actually received by him for the period last above mentioned shall be deducted from the sum otherwise to be paid pursuant to the provisions of this act.

It is the purpose of your committee in preparing the above substitute to deal equitably with the beneficiary by giving him the pay and allowances for actual duty performed while acting as a captain of cavalry, deducting all payments made on account of rank actually held, without conferring the rank asked, which is not deemed advisable on account of establishing a precedent of doubtful expediency.

Your committee are fully convinced, from facts stated in the War Department report, hereto appended, that this soldier is entitled to the pay and allowances asked for in the bill.

The following is the War Department report:

*Case of Francisco V. De Coster, late of the Mississippi Marine Brigade.*

A report in this case was furnished the Committee on Military Affairs, United States Senate, on Senate bill No. 2045, Fifty-first Congress, first session, March 11, 1890. Following is a copy:

“Francisco V. De Coster was enrolled January 1, 1863, and mustered into service

and appointed first sergeant Company A, Cavalry Battalion Mississippi Marine Brigade, January 14, 1863.

"On muster rolls of his company from date of muster into service to June 30, 1863, he is reported first sergeant, present for duty; July and August, 1863, first sergeant, present, with remark, 'Received furlough for thirty days, commencing August 31, 1863;' September and October, 1863, first sergeant, present; November and December, 1863, first sergeant, present, with remark, 'On special duty, acting second lieutenant and adjutant Battalion Cavalry Mississippi Marine Brigade;' January and February, 1864, reports him first sergeant, present, with remark, 'Acting captain and commanding company since February 13, 1864, by order General Ellet;' March and April, May and June, 1864, first sergeant, 'Acting captain, Company D, by Special Orders, No. 26, Headquarters Mississippi Marine Brigade, dated March 31, 1864.'

"Rolls of Company D for March and April, May and June, 1864, are signed by De Coster as acting captain commanding company.

"He was mustered out of service as a supernumerary noncommissioned officer August 29, 1864, by reason of the consolidation of the cavalry with the infantry, Mississippi Marine Brigade.

"The records fail to show that De Coster performed the duties of commanding officer of Company A prior to February 13, 1864, the captain of that company, John R. Crandall, being reported on muster rolls to include December 31, 1863, as present for duty, and on roll for January and February, 1864, Crandall is reported 'acting major.'

"A vacancy was created for a captain in Company D on July 1, 1863, by the death of William H. Wright; but the rolls show that Company D was commanded by Second Lieut. James B. Kirk from June 30, 1863, to January 16, 1864, and from last-named date to February 27, 1864, by First Sergt. J. W. Ellis.

"It does not appear that De Coster was ever commissioned captain in the Cavalry Battalion Mississippi Marine Brigade, although recommended for that position by the commanding officer thereof on July 9, 1863, February 10, 1864, and on May 28, 1864.

"In 1867 Mr. De Coster presented to this Department an application for recognition as captain First Battalion Mississippi Marine Brigade, from July 8, 1863, to August 29, 1864, and submitted in support thereof an affidavit of Alfred W. Ellet, late brigadier-general commanding said brigade, to the effect that he (De Coster) 'was assigned to the command of Company D, made necessary by the death of Captain Wright, killed in action June 30, 1863;' that 'a recommendation for the promotion of Sergeant De Coster was forwarded to the honorable Secretary of War July 8, 1863, but owing to the great deficiency of commissioned officers, he was placed on duty without waiting for the arrival of his commission, and that he performed all the duty of company commander from that date until finally mustered out of the service on August 29, 1864.'

"Although De Coster appears to have rendered service as captain in the Cavalry Battalion Mississippi Marine Brigade from February 13, 1864, to the date of his discharge, he can not be recognized as such by the Department under the provisions of the act approved June 3, 1884, and the acts amendatory thereof, for the reason that no commission was ever issued to him as of that grade."

Since the date of the report quoted above the status of the case has not been changed, either by the introduction of new testimony or by legislation, the act approved February 24, 1897, "to provide for the relief of certain officers and enlisted men of the volunteer forces," not being applicable to this case.

Respectfully submitted.

F. C. AINSWORTH,

*Colonel, United States Army, Chief Record and Pension Office.*

THE SECRETARY OF WAR.